

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SHULAM-MITE GF ONATO  
and EMELYN ONATO,

Plaintiffs,

v.

FREMONT INVESTMENT & LOAN,  
VANDERBILT MORTGAGE AND  
FINANCE, INC., and DOES 1-10,

Defendants.

No. C09-0814 MJP

DEFENDANTS FREMONT  
REORGANIZING CORPORATION AND  
VANDERBILT MORTGAGE AND  
FINANCE, INC.'S JOINT STATUS  
REPORT AND DISCOVERY PLAN

Defendants Fremont Reorganizing Corporation ("Fremont"), formerly known as Fremont Investment & Loan, and Vanderbilt Mortgage and Finance, Inc. ("Vanderbilt"), by and through their counsel of record, submit this Joint Status Report and Discovery Plan ("Report") pursuant to Fed. R. Civ. P. 26(f) and this Court's July 15, 2009, Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement and August 5, 2009, Minute Order requiring the parties to confer and submit a joint status report.

Defendants submit this Report, without the participation of Plaintiffs as ordered by this Court, because Defendants' attempts to confer with Plaintiffs were wholly unsuccessful. Specifically, Defendants' counsel of record, Miriam H. Cho (for Fremont) and John J. Weil (for

DEFENDANTS FREMONT REORGANIZING CORPORATION  
AND VANDERBILT MORTGAGE AND FINANCE, INC.'S JOINT  
STATUS REPORT AND DISCOVERY PLAN - 1  
Case No. C09-0814 MJP

FOSTER PEPPER PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
PHONE (206) 447-4400 FAX (206) 447-9700

Vanderbilt), attempted to contact Plaintiffs by telephone on August 14, 17, and 19, 2009, and Fremont's counsel sent a letter on August 19, 2009, to Plaintiffs requesting that they contact her at their earliest convenience to conduct the Fed. R. Civ. P. 26(f) conference. Declaration of Miriam H. Cho, at ¶¶ 2-3, attached hereto. Defendants never received a response from Plaintiffs. *Id.* at ¶ 4.

**1. Statement of the Nature and Complexity of the Case.**

**A. Defendants Statement.**

Plaintiffs have alleged a claim against Defendants under the Truth-in-Lending Act, and Defendants have denied Plaintiffs' allegations and asserted a number of affirmative defenses.

**2. Statement of ADR Method.**

Defendants agree that there should be ADR in this matter in the form of mediation.

**3. When Mediation or Other ADR Proceeding Under Local Rule 39.1 Will Occur.**

Defendants propose that Mediation should occur on or before December 15, 2009.

**4. Proposed Deadline for Joining Additional Parties.**

November 16, 2009, should be established as the deadline for adding additional parties.

**5. Proposed Discovery Plan.**

**A. Fed. R. Civ. P. 26(f) Conference and Fed. R. Civ. P. 26(a) Disclosures.**

Per the Declaration of Miriam Cho filed herewith, counsel for Defendants were unable to confer with Plaintiffs despite three phone calls and a letter directed to Plaintiffs about the need to confer. Each of the Defendants filed and served their Fed. R. Civ. P. 26a Disclosures on August 19, 2009.

**B. Discovery Subjects and Phases.**

Defendants anticipate that each party's file relating to the negotiations for and documentation of the loan, and the files relating to the transfer of the underlying loan documents to Vanderbilt Mortgage and Finance, Inc., will be the subject of discovery. Following production

1 of documents, the parties will take depositions. Defendants do not anticipate it being necessary to  
2 establish phases for discovery.

3 C. Changes in Limitations on Discovery.

4 Defendants propose to follow the Federal Rules and the Local Civil Rules without change.

5 D. Management of Discovery to Minimize Expense.

6 Defendants propose to follow the Federal Rules and the Local Civil Rules.

7 E. Other Orders That Should Be Entered by Court Under Fed. R. Civ. P. 26(c) or  
8 Local Rule CR 16(b) and (c).

9 Defendants are not aware of any order the Court should enter under Fed. R. Civ. P 26(c)  
10 or Local Rule CR 16(b) or (c), but reserve the right to bring such orders to the Court's attention as  
11 the need is manifested.

12  
13 **6. Remainder of Discovery Completion Date.**

14 Defendants propose that February 26, 2010, be established as the deadline to complete  
15 discovery.

16 **7. Full-Time Magistrate.**

17 The parties do not agree to the case being handled by a Magistrate Judge.

18 **8. Bifurcation.**

19 The parties do not believe that a bifurcation of any portion of this matter is necessary, but  
20 reserve the right to bring a motion to bifurcate should it become necessary in the future.

21 **9. Pretrial Statements and Pretrial Order.**

22 The parties do not believe that the pretrial statements and pretrial order should be  
23 dispensed with and comply with the rules regarding the same.

24 **10. Shortening or Simplifying the Case.**

25 The parties have no suggestions for shortening or simplifying the case at this time.

**11. Trial Readiness.**

Defendants anticipate that the case can be ready for trial in June 2010.

**12. Jury or Non-jury Trial.**

Defendants do not request a jury trial.

**13. Number of Days for Trial.**

Defendants anticipate a trial length of three (3) days.

**14. Trial Counsel.**

Trial Counsel for Plaintiffs: Unknown

Trial Counsel for Defendant Fremont:

Rodrick J. Dembowski, WSBA #31479  
Miriam H. Cho, WSBA #40238  
Foster Pepper, PLLC  
1111 Third Avenue, Suite 3400  
Seattle, WA 98101  
(206) 447-4400 Phone  
(206) 447-9700 Fax

Trial Counsel for Defendant Vanderbilt:

John J. Weil, WSBA #14129  
Hooper, Englund & Weil LLP  
2150 Congress Center  
1001 S.W. Fifth Avenue  
Portland, OR 97204-2140  
(503) 226-0500 Phone  
(503) 226-7192 Fax

**15. Service of Complaint.**

All parties have been served with Plaintiffs' original complaint.

////

////

////

////

////

DEFENDANTS FREMONT REORGANIZING CORPORATION  
AND VANDERBILT MORTGAGE AND FINANCE, INC.'S JOINT  
STATUS REPORT AND DISCOVERY PLAN - 4  
Case No. C09-0814 MJP

**FOSTER PEPPER PLLC**  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
PHONE (206) 447-4400 FAX (206) 447-9700

1 **16. Scheduling Conference.**

2 The parties do not require a scheduling conference.

3 DATED this 26th day of August, 2009.

4  
5 FOSTER PEPPER PLLC

6  
7 /s/ Miriam H. Cho

Rodrick J. Dembowski, WSBA #31479

8 Miriam H. Cho, WSBA #40238

9 Attorneys for Defendant Fremont Investment  
10 and Loan

11 HOOPER, ENGLUND & WEIL LLP

12  
13 /s/ John J. Weil

14 John J. Weil, WSBA #14129

15 Attorney for Vanderbilt Mortgage and Finance,  
16 Inc.

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SHULAM-MITE GF ONATO  
And EMELYN ONATO,

Plaintiffs,

v.

FREMONT INVESTMENT AND LOAN,  
VANDERBILT MORTGAGE AND  
FINANCE, INC., and DOES 1-10,

Defendants.

No. C09-0814 MJP

DECLARATION OF MIRIAM H. CHO  
IN SUPPORT OF DEFENDANTS  
FREMONT REORGANIZING  
CORPORATION AND VANDERBILT  
MORTGAGE AND FINANCE, INC.'S  
JOINT STATUS REPORT AND  
DISCOVERY PLAN

I, Miriam H. Cho, declare as follows:

1. I am one of the attorneys at Foster Pepper, PLLC representing Fremont Reorganizing Corporation ("Fremont"), formerly known as Fremont Investment & Loan, in the above-captioned matter. I am over the age of 18 and have personal knowledge of the facts and contents of this declaration and am otherwise competent to offer this declaration.

2. Counsel for Vanderbilt Mortgage and Finance, Inc., John Weil, and I attempted to contact Plaintiffs by telephone on August 14, 17, and 19, 2009. We left voice mail messages to Plaintiffs with each attempted contact, requesting a return call so that the parties could confer to submit a Joint Status Report and Discovery Plan.

DECLARATION OF MIRIAM H. CHO IN SUPPORT OF  
DEFENDANTS FREMONT REORGANIZING CORPORATION  
AND VANDERBILT MORTGAGE AND FINANCE, INC.'S JOINT  
STATUS REPORT AND DISCOVERY PLAN - 1

Case No. C09-0814 MJP

51011181.1

FOSTER PEPPER PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
PHONE (206) 447-4400 FAX (206) 447-9700

3. I also sent a letter to the Plaintiffs on August 19, 2009 requesting Plaintiffs to contact me at their earliest convenience to conduct the Fed. R. Civ. P. 26(f) conference.

4. Plaintiffs never contacted me or Mr. Weil.

I hereby certify and declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed at Seattle, Washington this 26th day of August, 2009.

/s/  
Miriam H. Cho

**CERTIFICATE OF SERVICE**

I, Brenda Bole, state that I am a citizen of the United States of America and a resident of the State of Washington, I am over the age of eighteen years, I am not a party to this action, and I am competent to be a witness herein.

That on August 26, 2009, a copy of Defendants Fremont Reorganizing Corporation and Vanderbilt Mortgage and Finance, Inc.'s Joint Status Report and Discovery Plan was served *via* the United States District Court, Western District of Washington Electronic Filing System.

Dated this 26th day of August, 2009.

/s/ Brenda Bole  
Brenda Bole

DEFENDANTS FREMONT REORGANIZING CORPORATION  
AND VANDERBILT MORTGAGE AND FINANCE, INC.'S JOINT  
STATUS REPORT AND DISCOVERY PLAN - 6  
Case No. C09-0814 MJP

FOSTER PEPPER PLLC  
1111 THIRD AVENUE, SUITE 3400  
SEATTLE, WASHINGTON 98101-3299  
PHONE (206) 447-4400 FAX (206) 447-9700